

191—50.112 (502) Advertising of viatical settlement investment contracts.

50.112(1) The issuer and agent shall file all viatical settlement investment contract advertisements with the administrator at least ten business days prior to the date of use or a shorter period as the administrator may permit. The administrator shall mark the advertisements with allowance for use or expressly disapprove them during this time frame. The advertisement shall not be used in Iowa until a copy thereof, marked with allowance for use, has been received from the administrator.

50.112(2) Viatical settlement investment contract advertisements shall contain no more than the following:

- a.* The name of the issuer;
- b.* The address and telephone number of the issuer;
- c.* A brief description of the security, including minimum purchase requirements and liquidity aspects;
- d.* If a rate of return is advertised, it must be stated as the annual average rate of return, with a disclaimer that this is an annual average rate of return, that individual investor rates of return will vary based upon the viator's projected and actual date of death, and that an annual rate of return on a viatical settlement investment contract cannot be guaranteed;
- e.* The name, address and telephone number of the agent of the issuer authorized to sell the viatical settlement investment contracts;
- f.* A statement that the advertisement is neither an offer to sell nor a solicitation of an offer to purchase and that any offer or solicitation may only be made by providing a disclosure document; and
- g.* How a copy of the disclosure document may be obtained.

50.112(3) Notwithstanding the provisions of rule 191—50.69(502), certain viatical settlement investment contract advertisements may be deemed false and misleading on their face by the administrator and are prohibited pursuant to Iowa Code sections 502.501 and 502.504. False and misleading viatical settlement investment contract advertisements include, but are not limited to, the following representations:

- a.* “Fully secured,” “100% secured,” “fully insured,” “secure,” “safe,” “backed by rated insurance company(ies),” “backed by federal law,” “backed by state law,” or similar representations;
- b.* “No risk,” “minimal risk,” “low risk,” “no speculation,” “no fluctuation,” or similar representations;
- c.* “Qualified or approved for IRA, Roth IRA, 401K, SEP, 403B, Keogh plans, TSA, other retirement account rollovers,” “tax deferred,” or similar representations;
- d.* “Guaranteed fixed return,” “guaranteed annual return,” “guaranteed principal,” “guaranteed earnings,” “guaranteed profits,” “guaranteed investment,” or similar representations;
- e.* “No sales charges or fees” or similar representations;
- f.* “High yield,” “superior return,” “excellent return,” “high return,” “quick profit,” or similar representations;
- g.* “Perfect investment,” “proven investment,” or similar representations;
- h.* Purported favorable representations or testimonials about the benefits of viaticals as an investment, taken out of context from newspapers, trade papers, journals, radio or television programs, or any other form of print or electronic media.

50.112(4) For purposes of this rule, the term “advertisement” includes any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including filmstrips, motion pictures, and videos, published in connection with the offer or sale of a viatical settlement investment contract.

This rule is intended to implement Iowa Code sections 502.102, 502.301, and 502.504.